

EXHIBIT 1

John P. Holland

3/28/2017

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<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF NEBRASKA</p> <p>3 QUINTON HARRIS, JOHN) CASE NO. 4 BAKER, GEOFFREY MILLER,) 8:16CV381-JFB-SMB 5 NORMAN MOUNT, THOMAS) 6 TAYLOR AND SCOTT ZINN,) DEPOSITION OF 7 INDIVIDUALLY AND ON) JOHN P. HOLLAND 8 BEHALF OF OTHERS) 9 SIMILARLY SITUATED,) TAKEN ON BEHALF 10 PLAINTIFFS,) OF THE PLAINTIFFS 11 VS.) 12) 13 UNION PACIFIC RAILROAD) 14 COMPANY,) 15) 16 DEFENDANT.) 17 -----) 18) 19) 20) 21) 22) 23) 24) 25)</p> <p>DEPOSITION OF JOHN P. HOLLAND, taken before Cynthia Craig, General Notary Public within and for the State of Nebraska, beginning at 12:00 p.m., on March 28, 2017, at the Law Offices of Baird, Holm, 1500 Woodmen Tower, Omaha, Nebraska, pursuant to the within stipulations.</p>	<p>1 I N D E X</p> <p>2 CASE CAPTION Page 1 3 APPEARANCES Page 2 4 INDEX Page 3 5 STIPULATIONS Page 5 6 TESTIMONY Page 5 7 REPORTER CERTIFICATE Page 197</p> <p>8 DIRECT EXAMINATION: 9 By MR. SCHUG Page 5</p> <p>10 CROSS-EXAMINATION: 11 By MR. MOORE Page 18</p> <p>12 MARKED</p> <p>13 EXHIBIT 1. Deposition Notice 5 14 EXHIBIT 2. Defendant's Objections 5 15 EXHIBIT 3. Organizational Charts 14 16 EXHIBIT 4. Job Description: Chief Medical 17 Officer/Medical Director 22 18 EXHIBIT 5. Health & Medical Contracts List 29 19 EXHIBIT 6. Medical Rules 196 20 EXHIBIT 7. Executive Summary 120 21 EXHIBIT 8. Expert Panel Recommendations .. 120 22 EXHIBIT 9. FMCSA's Medical Review Board .. 123 23 EXHIBIT 10. Executive Summary: Seizure 24 Disorders and Commercial 25 Motor Vehicle Driver Safety ... 127</p>
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<p>1 A P P E A R A N C E S</p> <p>2 FOR THE PLAINTIFFS: 3 MR. ROBERT L. SCHUG 4 MS. LAURA A. BAURES 5 NICHOLS KASTER 6 4600 IDS Center 7 80 South 8th Street 8 Minneapolis, Minnesota 55402 9 (877) 448-0492 FAX (612) 215-4878 10 schug@nka.com 11 lbaures@nka.com</p> <p>12 FOR THE DEFENDANT: 13 MR. SCOTT P. MOORE (#20752) 14 MS. ALLISON D. BALUS (#23270) 15 BAIRD HOLM LLP 16 1500 Woodmen Tower 17 Omaha, Nebraska 68102 18 (402) 344-0500 FAX 344-0588 19 spmoore@bairdholm.com 20 abalus@bairdholm.com</p>	<p>1 MARKED</p> <p>2 EXHIBIT 11. Expert Panel Recommendations: 3 Seizure Disorders and Commercial 4 Motor Vehicle Driver Safety ... 127</p> <p>5 EXHIBIT 12. Medical Examination Report 156</p> <p>6 EXHIBIT 13. Medical Examination Report for 7 Commercial Driver Fitness 8 Determination 158</p> <p>9 EXHIBIT 14. Union Pacific Railroad Fit Test 10 Authorization Form 159</p> <p>11 EXHIBIT 15. Medical Consent Form 160</p> <p>12 EXHIBIT 16. Letter dated November 7, 2014 13 To Virginia Pollard 167</p> <p>14 EXHIBIT 17. Letter dated March 19, 2014 15 to Geoffrey W. Miller 169</p> <p>16 EXHIBIT 18. Form Letter 171</p> <p>17 EXHIBIT 19. Letter dated January 8, 2015 18 To Geoffrey W. Miller 173</p> <p>19 EXHIBIT 20. Supplemental Doctor's Statement 178</p> <p>20 EXHIBIT 21. Standard Work Restrictions 179</p>

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<p>1 MR. SCHUG: Okay. And 14, my</p> <p>2 understanding is that you're not providing a witness</p> <p>3 for?</p> <p>4 MR. MOORE: That's fair, yeah.</p> <p>5 MR. SCHUG: 15 we've done. And my</p> <p>6 understanding is that you're also not producing a</p> <p>7 witness on 16 and 17?</p> <p>8 MR. MOORE: Correct.</p> <p>9 MR. SCHUG: Okay. As I stated</p> <p>10 earlier this morning, just the same thing here, we</p> <p>11 obviously reserve the right to take up any issues</p> <p>12 with the court concerning those objections or the</p> <p>13 topics that Union Pacific has not identified a</p> <p>14 witness for.</p> <p>15 MR. MOORE: Understood.</p> <p>16 BY MR. SCHUG:</p> <p>17 Q. Dr. Holland, what is your position with</p> <p>18 Union Pacific?</p> <p>19 A. I'm the chief medical officer.</p> <p>20 Q. And how long have you held that position?</p> <p>21 A. I -- since March 1st, 2010.</p> <p>22 Q. And what are your responsibilities as</p> <p>23 chief medical officer?</p> <p>24 A. Well, I have responsibilities for</p> <p>25 providing medical oversight to everything that the</p>	<p>1 resources, human resources health services; is that</p> <p>2 one position?</p> <p>3 A. So, yes, this is the associate vice</p> <p>4 president for health and medical services, and he</p> <p>5 reports to the vice president for human services --</p> <p>6 or excuse me, for human resources.</p> <p>7 Q. Okay. Who is the VP for human resources?</p> <p>8 A. Mark Winkler.</p> <p>9 Q. And just generally, what are his job</p> <p>10 duties?</p> <p>11 A. Well, he -- he -- he's in charge of the</p> <p>12 department, which deals with -- the things that I</p> <p>13 said he had medical oversight, those are the</p> <p>14 functions of the department.</p> <p>15 So we have -- we do medical</p> <p>16 fitness-for-duty processes for our employees, we</p> <p>17 do -- part of that is doing the persisting</p> <p>18 employees, we do it for preplacement basis</p> <p>19 employees.</p> <p>20 We also have regulatory exams and other</p> <p>21 types of physical exams. Our department also has a</p> <p>22 component, disability prevention management. That's</p> <p>23 essentially vocational rehabilitation professionals,</p> <p>24 and they work with our own employees if they, for</p> <p>25 some reason, can't return to a certain job, and also</p>
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<p>1 health and medical services department does,</p> <p>2 including oversight to the medical fitness-for-duty</p> <p>3 evaluation program. And we have other programs that</p> <p>4 deal with regulatory medical exams, preplacement</p> <p>5 medical exams, health promotion programs, and we</p> <p>6 have other activities working with other parts of</p> <p>7 the company, particularly the safety department, for</p> <p>8 anything that involves health and safety.</p> <p>9 So any of these things where there's a</p> <p>10 need for occupational health and medical input, I</p> <p>11 provide that.</p> <p>12 Q. Okay. I want to talk about -- first thing</p> <p>13 today about kind of the hierarchy of the health and</p> <p>14 medical services group within Union Pacific.</p> <p>15 (Exhibit No. 3 marked for</p> <p>16 identification.)</p> <p>17 BY MR. SCHUG:</p> <p>18 Q. Okay. Exhibit 3, it looks like, has three</p> <p>19 organizational charts for Union Pacific. The first</p> <p>20 page, Bates labeled 7125, what is this chart</p> <p>21 covering?</p> <p>22 A. This first page is the health and medical</p> <p>23 services department where I work.</p> <p>24 Q. Okay. And at the top it says, AVP-health</p> <p>25 and medical services, and then it says human</p>	<p>1 do other sort of general disability prevention</p> <p>2 activities.</p> <p>3 We -- the third thing is we have a group</p> <p>4 within the department that -- well, so we're divided</p> <p>5 into sort of a clinical group and administrative</p> <p>6 group and a disability prevention management group,</p> <p>7 and he's responsible for all these activities.</p> <p>8 Q. Okay. And who is immediately below the</p> <p>9 AV -- or the VP of HR?</p> <p>10 A. Well, there are several of us. I report</p> <p>11 directly -- I'm sorry.</p> <p>12 Q. Well, who is the AVP, is that Ed Willis?</p> <p>13 A. No, I -- I misunderstood your question.</p> <p>14 Q. Okay.</p> <p>15 A. Could you ask it again.</p> <p>16 Q. Sure. Who is the AVP of health and</p> <p>17 medical on this chart?</p> <p>18 A. Mr. Mark Winkler.</p> <p>19 Q. Okay, gotcha. Who is the VP of HR?</p> <p>20 A. So the -- Sherrye Hutcherson.</p> <p>21 Q. Okay. And what are Ms. Hutcherson's</p> <p>22 duties as VP of HR just generally?</p> <p>23 A. Well, yes, so obviously HR has different</p> <p>24 components, so one component is health and medical</p> <p>25 services. There's also a component that deals with</p>

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<p>1 recruiting, basically hiring; there's a component</p> <p>2 that deals with training, both for new hires and for</p> <p>3 existing employees; and there is a component that's</p> <p>4 called talent management, which is other things</p> <p>5 besides training: Employee empowerment and</p> <p>6 education. And then there is a benefits, so</p> <p>7 employee benefits; and sort of general personnel</p> <p>8 administration human resources.</p> <p>9 Q. Who is -- who is Ed Willis?</p> <p>10 A. Ed Willis was the previous associate</p> <p>11 medical director -- or excuse me, associate</p> <p>12 vice president, AVP for health and medical services,</p> <p>13 and he retired in October of 2016.</p> <p>14 Q. Okay. And my understanding is that</p> <p>15 Chandra Henley was AVP of health and medical before</p> <p>16 Mr. Willis?</p> <p>17 A. That's correct. She -- she was in that</p> <p>18 position until sometime January, February 2016, then</p> <p>19 Mr. Willis was in it for eight months until he</p> <p>20 retired, and then Mr. Winkler.</p> <p>21 Q. And how long had Ms. Henley been in the</p> <p>22 position before Mr. Willis?</p> <p>23 A. I believe -- I don't know the exact date,</p> <p>24 but it was approximately 2009 I think that she took</p> <p>25 that position.</p>	<p>1 what other kind of jobs within Union Pacific they</p> <p>2 may be qualified for, and they will give them</p> <p>3 information on how to apply for it, and work with</p> <p>4 them on that.</p> <p>5 And they'll also do that in terms of out</p> <p>6 placement, jobs outside of Union Pacific. If they</p> <p>7 have somebody that has restrictions that don't allow</p> <p>8 them to continue with their job, they will work with</p> <p>9 people that are -- may have a medical problem or</p> <p>10 disability and want to come back to the job, they'll</p> <p>11 work with the local manager and the company to see</p> <p>12 if they can find ways to accommodate them in their</p> <p>13 current job. And so they'll -- or -- or another</p> <p>14 job, so they'll work with the accommodations</p> <p>15 process.</p> <p>16 They'll also work on disability</p> <p>17 prevention, trying to develop proactive programs to</p> <p>18 keep people at work, you know, to have them come</p> <p>19 back as soon as possible from medical problems or</p> <p>20 disability in general. It's a program basis.</p> <p>21 One of the programs they use is something</p> <p>22 called a temporary alternate work, which some</p> <p>23 employees are eligible to come back to their jobs on</p> <p>24 a limited duty basis for a period of time, which is</p> <p>25 one of their programs.</p>
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<p>1 Q. Okay. Going back to the first page of the</p> <p>2 chart on Exhibit 3, let's start on the left,</p> <p>3 director of disability prevention, who is in that</p> <p>4 position?</p> <p>5 A. That position is vacant --</p> <p>6 Q. Okay.</p> <p>7 A. -- right now.</p> <p>8 Q. Who was in that position most recently?</p> <p>9 A. Sheila Gniffke-Prybl. And I'll spell that</p> <p>10 for you, G-N-I-F-F-K-E, dash, P-R-Y-B-L.</p> <p>11 Q. And how long was Mrs. Gniffke-Prybl in --</p> <p>12 director of disability prevention?</p> <p>13 A. I -- my recollection is probably -- is</p> <p>14 from about 2011 until -- until about November 2016,</p> <p>15 when she retired.</p> <p>16 Q. Okay. And what generally are the duties</p> <p>17 of the director of disability prevention, just</p> <p>18 briefly?</p> <p>19 A. Well, that department does several</p> <p>20 functions. First of all, if we have an employee</p> <p>21 that for some medical reason is unable to continue</p> <p>22 in their particular job, their current job, because</p> <p>23 they have work restrictions or something like that,</p> <p>24 then they will work with them.</p> <p>25 We'll work with that employee to find out</p>	<p>1 Q. Why is that position vacant right now?</p> <p>2 A. Well, I don't know the answer to that, she</p> <p>3 just left a couple months ago.</p> <p>4 Q. Okay. Did she leave voluntarily?</p> <p>5 A. She retired, yeah, voluntarily.</p> <p>6 Q. Okay. The position to the right is</p> <p>7 regional manager-disability prevention. Does that</p> <p>8 job involve similar functions that you just</p> <p>9 described for the director?</p> <p>10 A. Yes. There are three regional managers</p> <p>11 for disability prevention, and those positions are</p> <p>12 still being held, and they had reported to the</p> <p>13 director, so they're basically running that division</p> <p>14 right now.</p> <p>15 Q. Okay. And what are the regions that each</p> <p>16 of the regional managers cover?</p> <p>17 A. Well, traditionally Union Pacific is set</p> <p>18 up with northern region, southern region, western</p> <p>19 region of the United -- of our territory, and we</p> <p>20 aren't exactly following that pattern because, one,</p> <p>21 we're -- they've divided up the regions differently,</p> <p>22 but essentially most of our operations, when we have</p> <p>23 regional managers, cover -- cover that, but right</p> <p>24 now, they're both -- they're sort of assuming the</p> <p>25 director's responsibilities as their regional, so</p>

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<p>1 they're dividing it up.</p> <p>2 Q. Okay. But in a -- in the traditional</p> <p>3 division, each of these regional managers would have</p> <p>4 responsibility for a certain part of the country?</p> <p>5 A. Yes. Traditionally it had been northern,</p> <p>6 southern and western regions.</p> <p>7 Q. Okay. Next position to the right is</p> <p>8 general director-clinical services. Who is in that</p> <p>9 position?</p> <p>10 A. Ms. Deborah Gengler, G-E-N-G-L-E-R.</p> <p>11 Q. And what are just generally the</p> <p>12 responsibilities of Ms. Gengler?</p> <p>13 A. Well, she has oversight responsibility,</p> <p>14 along with me, parallel with me, for all the</p> <p>15 programs I do in terms of clinical oversight, for</p> <p>16 fitness-for-duty, preplacement exams, regulatory</p> <p>17 exams, and other general health and safety issues</p> <p>18 with the company.</p> <p>19 So most of these things we -- we do</p> <p>20 together, you know, on a team basis, and we have --</p> <p>21 she's a nurse, master's level occupational health</p> <p>22 nurse, and so she has more direct oversight with the</p> <p>23 nurses.</p> <p>24 Q. Okay. And chief medical officer, that's</p> <p>25 you?</p>	<p>1 MR. SCHUG: That's okay.</p> <p>2 MR. MOORE: My phone is muted, but my</p> <p>3 watch isn't. I'm still getting used to this new</p> <p>4 one.</p> <p>5 BY MR. SCHUG:</p> <p>6 Q. It looks to me, Dr. Holland, like this job</p> <p>7 description lists a closing date of 12/23/2009, so</p> <p>8 it looks like this was the position of chief medical</p> <p>9 officer that you applied for; does that sound right?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Can you just silently to yourself</p> <p>12 take a look at this job description and let me know</p> <p>13 once you're done giving it a look.</p> <p>14 A. (Witness complies.)</p> <p>15 Q. Have you taken a look?</p> <p>16 A. Yes.</p> <p>17 Q. Does Exhibit 4 appear to be an accurate</p> <p>18 description of your job as chief medical officer?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Are there any -- in the</p> <p>21 accountability section, are there any -- is there</p> <p>22 anything that -- was there anything that stuck out</p> <p>23 to you as a -- as something that you're not</p> <p>24 responsible for in your current position --</p> <p>25 A. No.</p>
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<p>1 A. That's correct.</p> <p>2 Q. And we've covered this before, but just</p> <p>3 briefly give me an overview of your duties.</p> <p>4 A. So my duties is to provide medical</p> <p>5 oversight for the corporation for anything that</p> <p>6 involves -- well, that might involve health or</p> <p>7 medical or, you know, public health.</p> <p>8 And so I'm involved with providing</p> <p>9 oversight to fitness-for-duty programs, preplacement</p> <p>10 medical exams, which is part of fitness-for-duty,</p> <p>11 our regulatory exam, medical exam program.</p> <p>12 We provide support to other parts of the</p> <p>13 company. There is medical input, like safety,</p> <p>14 benefits, the -- and work on preventative programs,</p> <p>15 health promotion programs and health and safety</p> <p>16 preventative programs, too.</p> <p>17 (Exhibit No. 4 marked for</p> <p>18 identification.)</p> <p>19 BY MR. SCHUG:</p> <p>20 Q. Dr. Holland, I'm showing you what we've</p> <p>21 marked as Exhibit 4, which looks like a job</p> <p>22 description for a chief medical officer/medical</p> <p>23 director.</p> <p>24 (Phone ringing.)</p> <p>25 MR. MOORE: Sorry about that.</p>	<p>1 Q. -- that was inaccurate?</p> <p>2 A. No.</p> <p>3 Q. Okay. Who reports directly to you?</p> <p>4 A. So I have -- there are three contract</p> <p>5 associate medical directors for Union Pacific. So</p> <p>6 they're not employees, they're contractors, but we</p> <p>7 have a contract with them to provide associate</p> <p>8 medical director services.</p> <p>9 So they report to me in terms of clinical</p> <p>10 direction, their job duties and their -- so</p> <p>11 essentially it's direct reporting although they're</p> <p>12 not employees.</p> <p>13 Q. Sure. And what are the job</p> <p>14 responsibilities of those associate medical</p> <p>15 directors?</p> <p>16 A. So the associate medical directors are</p> <p>17 responsible for helping support all of these</p> <p>18 programs we have, primarily the medical</p> <p>19 fitness-for-duty program.</p> <p>20 So they'll work with our fitness-for-duty</p> <p>21 nurses, and they'll have assigned work groups that</p> <p>22 they work with to support the nurses, which are</p> <p>23 basically the three regions: Northern, southern and</p> <p>24 western, and then we have some other assignments,</p> <p>25 such as engineering services because they aren't</p>

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<p>1 systems based. One of the doctors supports them.</p> <p>2 And we have -- another group of services</p> <p>3 is regulatory exams, like the commercial driver's</p> <p>4 license; and another group is preplacement.</p> <p>5 So -- so their duties are -- are divided</p> <p>6 into these areas, and they have occupational health</p> <p>7 nurses that support them. And they will review</p> <p>8 these cases, either determining if the person meets</p> <p>9 the regulatory requirements, if that's the issue, or</p> <p>10 look at fitness-for-duty, the decision is does -- is</p> <p>11 the person's medical condition or treatment posing a</p> <p>12 safety risk for themselves or others at work, and if</p> <p>13 so, do they need work restrictions.</p> <p>14 So that's the majority of what they do.</p> <p>15 We will occasionally assign them to do another</p> <p>16 project, like help develop a protocol or provide</p> <p>17 some training to our nurses.</p> <p>18 Q. Okay. What are the names of the three</p> <p>19 current associate medical directors?</p> <p>20 A. One is Matthew Hughes, H-U-G-H-E-S.</p> <p>21 Q. And how long has Mr. Hughes had a contract</p> <p>22 with Union Pacific?</p> <p>23 A. I believe he started with us around 2012.</p> <p>24 Q. Okay. And what -- what areas is he</p> <p>25 specifically assigned to?</p>	<p>1 20 years.</p> <p>2 Q. Okay. Remind me of the name of the third</p> <p>3 associate medical director, the last name?</p> <p>4 A. Lewis.</p> <p>5 Q. Okay. And what areas is he responsible</p> <p>6 for?</p> <p>7 A. Okay. So he -- he covers our regulatory</p> <p>8 exams, he's doing what we call manager referrals, so</p> <p>9 if a manager has a safety concern, there's a</p> <p>10 special -- that initiates a fitness-for-duty</p> <p>11 evaluation, we have a nurse that handles just those,</p> <p>12 and Dr. Lewis supports that.</p> <p>13 Oh, I might mention Mr. Charboneau does</p> <p>14 both the western region and the southern region.</p> <p>15 Q. Okay. Does anybody at Union Pacific</p> <p>16 report directly to the associate medical directors?</p> <p>17 A. No.</p> <p>18 Q. Okay. Moving over, on Exhibit 3 again, to</p> <p>19 the position of director-health and safety, who is</p> <p>20 in that position?</p> <p>21 A. So this is Jennifer Sedlacek.</p> <p>22 Q. Okay. And what are Ms. Sedlacek's duties?</p> <p>23 A. So this is handling -- under her, she's</p> <p>24 all -- the administration for our department, so she</p> <p>25 has the budgeting responsibility under her, and she</p>
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<p>1 A. The -- well, we do change them, you know,</p> <p>2 so -- and my recollection right now is that he's</p> <p>3 doing our northern region and he's doing our</p> <p>4 engineering services -- well, I think those are his</p> <p>5 duties now.</p> <p>6 Q. Okay. Thank you.</p> <p>7 And who's next, who is the -- another one?</p> <p>8 A. John Charboneau, C-H-A-R-B-E-A -- let me</p> <p>9 try writing it and then I can do better. It's sort</p> <p>10 of the -- C-H-A-R-B-O-N-E-A-U.</p> <p>11 Q. And what areas is he responsible for?</p> <p>12 A. He's responsible for the southern region</p> <p>13 and he's responsible for the preplacement</p> <p>14 examinations.</p> <p>15 Q. Okay. And who is the -- who is the third</p> <p>16 associate medical director?</p> <p>17 A. Donald Richard Lewis. He goes by Dick,</p> <p>18 his middle name.</p> <p>19 Q. How long has he been with Union Pacific as</p> <p>20 a contractor?</p> <p>21 A. I think he -- I believe he started in</p> <p>22 2015.</p> <p>23 Q. When did Mr. Charboneau start?</p> <p>24 A. He -- he tells me he's worked as a -- as a</p> <p>25 contract physician for Union Pacific for more than</p>	<p>1 has personnel responsibilities for -- for the</p> <p>2 nursing group both in Omaha and in the field.</p> <p>3 She's also got a group that we call our</p> <p>4 regulatory group, which helps manage the</p> <p>5 administrative part of the -- all the regulatory</p> <p>6 exams such as hearing conservation and commercial</p> <p>7 driver's license. And then we have our own computer</p> <p>8 support people, and they respond -- or report to</p> <p>9 her.</p> <p>10 Q. Okay. And then it looks like underneath</p> <p>11 that position, there are several senior managers.</p> <p>12 Are they responsible for different areas within --</p> <p>13 within that group?</p> <p>14 A. Yes, so I might explain there's three it</p> <p>15 says senior managers-clinical services, regional</p> <p>16 managers-clinical services, so those are nurses who</p> <p>17 manage our occupational health nurses in the field,</p> <p>18 and they're developed -- they're again divided into</p> <p>19 the three northern, western and southern regions, so</p> <p>20 the occupational health nurses out of our facilities</p> <p>21 in those regions will report to these regional</p> <p>22 managers of clinical services.</p> <p>23 Q. Okay.</p> <p>24 A. The --</p> <p>25 Q. And what are the names of the current</p>

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<p>1 regional managers?</p> <p>2 A. Okay. So Jennifer Roberts is the regional</p> <p>3 manager for the northern region.</p> <p>4 Q. Okay. I'm gonna -- I want to stop you</p> <p>5 there just quickly and mark another exhibit because</p> <p>6 I think that'll help us.</p> <p>7 (Exhibit No. 5 marked for</p> <p>8 identification.)</p> <p>9 BY MR. SCHUG:</p> <p>10 Q. All right. Exhibit 5 is a document that's</p> <p>11 entitled Health & Medical Contacts List; do you see</p> <p>12 that?</p> <p>13 A. Yes.</p> <p>14 Q. And it looks like this is -- well, what is</p> <p>15 this document?</p> <p>16 A. Well, this tells the people in regards to</p> <p>17 leadership positions within the -- and the staff</p> <p>18 within the department of health and medical</p> <p>19 services. I think it's dated from 2011, so some of</p> <p>20 these people have changed.</p> <p>21 Q. Okay. But this is covering something</p> <p>22 similar to the structure that we've been discussing</p> <p>23 on the org chart?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Let's go back to -- we left off at</p>	<p>1 regulatory placement?</p> <p>2 A. No, no.</p> <p>3 Q. Okay.</p> <p>4 A. What there is -- there is -- and this</p> <p>5 probably just has to do with the title, we have a</p> <p>6 manager that's over the fitness-for-duty nurses in</p> <p>7 Omaha. So we have a number of fitness-for-duty</p> <p>8 nurses in Omaha, and there is a manager over them.</p> <p>9 I don't know what the title is.</p> <p>10 Q. Okay.</p> <p>11 A. But the -- and that position -- well, and</p> <p>12 then there's another position in Omaha, which is --</p> <p>13 again, I don't know the title, but it's in charge of</p> <p>14 all the administrative people, non-nursing staff who</p> <p>15 support us in terms of the budget, and there are</p> <p>16 people that are administrative that deal with</p> <p>17 regulatory and the computer people. So there's</p> <p>18 another manager in Omaha, and it probably is one of</p> <p>19 these titles. I can't tell you which one.</p> <p>20 Q. Okay. Who reports directly to the senior</p> <p>21 managers that we just discussed?</p> <p>22 A. So the three nursing senior managers,</p> <p>23 the -- we have occupational health nurses who are in</p> <p>24 field locations and around the areas we work in, and</p> <p>25 they report directly to those regional managers.</p>
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<p>1 Jennifer Roberts, and what was her position again?</p> <p>2 A. She's currently the regional</p> <p>3 manager-clinical services for the northern region.</p> <p>4 Q. Okay. And who's the next regional</p> <p>5 manager?</p> <p>6 A. Virginia Dunn, D-U-N-N.</p> <p>7 Q. And what is she responsible for?</p> <p>8 A. She's responsible for the southern region.</p> <p>9 Q. Okay. And who's next?</p> <p>10 A. Karen it's Meyers, M-E-Y-E-R-S, dash,</p> <p>11 Barr, B-A-R-R. She's responsible for the western</p> <p>12 region.</p> <p>13 Q. Okay. And it looks like there are two</p> <p>14 more regional managers, who are they?</p> <p>15 A. The --</p> <p>16 Q. It looks like -- just going from the</p> <p>17 Exhibit 5 we just looked at, it looks like there may</p> <p>18 be also somebody in charge of regulatory placement</p> <p>19 and somebody for engineering; is that -- is that</p> <p>20 right?</p> <p>21 A. No, the -- there may be on the org chart,</p> <p>22 but there aren't any -- those positions aren't in</p> <p>23 existence or there's nobody in them.</p> <p>24 Q. Okay. Historically has there been</p> <p>25 somebody -- a regional manager in charge of</p>	<p>1 Q. Okay. And how many nurses work in each</p> <p>2 region?</p> <p>3 A. I don't know. I think their total number</p> <p>4 of nurses varies, but we have approximately</p> <p>5 40 occupational health nurses, not counting these</p> <p>6 managers.</p> <p>7 Q. Okay. And if we're talking about</p> <p>8 Union Pacific employees that are involved in the</p> <p>9 fitness-for-duty process, is there anybody that we</p> <p>10 haven't covered? I mean, basically if we start with</p> <p>11 the occupational health nurses and work our way up</p> <p>12 to, you know, on this chart, Exhibit 3, the AVP of</p> <p>13 health and medical, have we hit everybody, or is --</p> <p>14 are there people we've left out?</p> <p>15 MR. MOORE: Object: Form.</p> <p>16 Go ahead.</p> <p>17 THE WITNESS: We've talked about</p> <p>18 everybody. I think as I mentioned, in Omaha we have</p> <p>19 nurses that are dedicated just to do</p> <p>20 fitness-for-duty. And that number varies also, but</p> <p>21 it's approximately six to eight, you know, and</p> <p>22 including we have some contract nurses, but mainly</p> <p>23 they're employees. And they would report to this</p> <p>24 manager for fitness-for-duty. I don't know if these</p> <p>25 are the exact titles.</p>

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<p>1 BY MR. SCHUG:</p> <p>2 Q. Gotcha.</p> <p>3 A. But -- and I mentioned them before, but I</p> <p>4 think everyone -- I think I've discussed everyone</p> <p>5 that's involved in our health and medical services</p> <p>6 department that would deal with fitness-for-duty.</p> <p>7 Q. Okay.</p> <p>8 MR. MOORE: The food is here so</p> <p>9 whenever you guys want a break.</p> <p>10 MR. SCHUG: Sure, let's take a break</p> <p>11 for lunch now.</p> <p>12 MR. MOORE: Okay.</p> <p>13 (12:49 p.m. - Recess taken.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 words, at the top would be kind of a flat structure</p> <p>2 between the AVP of health and medical, yourself as</p> <p>3 the chief medical officer, and then Deb Gengler, the</p> <p>4 director of clinical services?</p> <p>5 A. Yeah. Let me just clarify a little bit.</p> <p>6 Q. Yep.</p> <p>7 A. Of course, we all report to our AVP of</p> <p>8 medical, and we -- the -- when we deal with a</p> <p>9 fitness-for-duty issue, I and Deb Gengler will</p> <p>10 provide a lot of oversight. We've got our nursing</p> <p>11 group, which are all assigned with associate medical</p> <p>12 directors.</p> <p>13 So any case we have in fitness-for-duty</p> <p>14 has probably got four people directly involved with</p> <p>15 it. So -- and really not very hierarchical because</p> <p>16 we all have our -- all have our things to say about</p> <p>17 it, you know, and the -- and I'll provide more</p> <p>18 clinical direction, you know, Deb Gengler might</p> <p>19 provide more administrative direction on how we do</p> <p>20 it.</p> <p>21 Q. Okay. But then as far as the reporting</p> <p>22 relationship, the -- Deb Gengler, as the general</p> <p>23 director of clinical services, has these three</p> <p>24 senior managers that report to her; is that right?</p> <p>25 A. That used to be the structure, and right</p>
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<p>1 (At 1:22 p.m., with parties present as</p> <p>2 before, the following proceedings were had, to-wit:)</p> <p>3 BY MR. SCHUG:</p> <p>4 Q. Okay. Dr. Holland, I want to see if we</p> <p>5 can kind of summarize the -- do a little work to</p> <p>6 kind of summarize what we've talked about, about the</p> <p>7 reporting structure with regard to fitness-for-duty</p> <p>8 evaluations.</p> <p>9 So my understanding is at the top would be</p> <p>10 you, correct, chief medical officer?</p> <p>11 MR. MOORE: Objection: Form, but go</p> <p>12 ahead.</p> <p>13 THE WITNESS: Well, I don't -- you</p> <p>14 know, I said I report to the vice president.</p> <p>15 BY MR. SCHUG:</p> <p>16 Q. Sure.</p> <p>17 A. The fitness-for-duty nurses don't report</p> <p>18 to me. You know, we work together as a team, you</p> <p>19 know, and the director of clinical services, Deb</p> <p>20 Gengler, works with us too, so it's sort of -- I</p> <p>21 don't know if I'd say at the top, but it's more of</p> <p>22 a --</p> <p>23 Q. Okay.</p> <p>24 A. -- more of a level --</p> <p>25 Q. So maybe at the -- at the -- using my</p>	<p>1 now they are reporting independently to our head of</p> <p>2 administrative services, but in terms of clinical</p> <p>3 direction, she still has that.</p> <p>4 Q. Okay. And as far as the formal reporting</p> <p>5 structure, when did that change?</p> <p>6 A. Sometime in mid 2016.</p> <p>7 Q. Okay. So fairly recently.</p> <p>8 And then I also want to see if I can get a</p> <p>9 better sense from you on -- so we have 40 or so</p> <p>10 fitness-for-duty nurses, are they -- are the</p> <p>11 fitness-for-duty nurses siloed in a specific region</p> <p>12 or are they divided up by the type of -- the type of</p> <p>13 work that they're doing?</p> <p>14 A. Okay. Well, let me correct you just a</p> <p>15 little bit.</p> <p>16 Q. Yep.</p> <p>17 A. We have -- we -- the -- our two types of</p> <p>18 nurses, occupational health nurses, we call them,</p> <p>19 are the nurses in the field. Now, broad sense, you</p> <p>20 could say all of our nurses, the fitness-for-duty</p> <p>21 nurses are also occupational health nurses, so we</p> <p>22 don't get confused, we call the nurses in the field</p> <p>23 assignments occupational health nurses.</p> <p>24 We have 40 of those, and those are the</p> <p>25 ones that report to the regional clinical services</p>

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<p>1 managers, which are these also nurses, and they --</p> <p>2 to answer your question about what they do, we</p> <p>3 have -- for our major shops -- so we have mechanical</p> <p>4 shops to maintain and repair locomotives, and we</p> <p>5 have a separate set of mechanical shops to maintain</p> <p>6 and repair railcars, so we call them car shops and</p> <p>7 locomotive shops.</p> <p>8 And -- and we -- and the major facilities,</p> <p>9 the larger shops all have a nursing office, and</p> <p>10 they're assigned to one or more occupational health</p> <p>11 nurses that work there, and then we have what we</p> <p>12 call service units.</p> <p>13 And the company is divided -- that's the</p> <p>14 next level of organization below a region, and</p> <p>15 there's approximately I think 20 service units in</p> <p>16 the company, and so each service unit will have a</p> <p>17 nurse that provides support service to the</p> <p>18 transportation, which is the train crews mainly,</p> <p>19 transportation employees.</p> <p>20 So we will have -- for instance,</p> <p>21 North Platte is the headquarters of a service unit.</p> <p>22 North Platte will have occupational health -- one or</p> <p>23 more occupational health nurses that are service</p> <p>24 unit nurses that deal with our train crews, and</p> <p>25 they've also got some shop nurses that deal with</p>	<p>1 divided between the north, south and west regions;</p> <p>2 is that right?</p> <p>3 A. Yes. So they -- they -- they don't</p> <p>4 overlap. Basically the southern region is comprised</p> <p>5 of this -- these -- the certain service units there,</p> <p>6 and then the western region, so there's no</p> <p>7 overlapping boundaries between the service units and</p> <p>8 the regions.</p> <p>9 Q. Okay. You may have covered this briefly,</p> <p>10 but can you go into more detail about the difference</p> <p>11 between what the field OHN nurses do and what the</p> <p>12 fitness-for-duty nurses do in Omaha?</p> <p>13 A. Yes. Start with the field occupational</p> <p>14 health nurses, so they will have an office in a</p> <p>15 facility, and the office will have facilities to do</p> <p>16 first aid.</p> <p>17 So they will take care of first aid for</p> <p>18 injuries, particularly in the shop if something</p> <p>19 happens there, but they'll also have -- typically</p> <p>20 have an audiogram booth so they can do audiograms to</p> <p>21 meet our responsibility for hearing conservation</p> <p>22 programs, and they will have equipment to do vision</p> <p>23 testing, you know, like a wall chart to do distant</p> <p>24 vision, and they'll have some color vision books,</p> <p>25 and so they'll do that.</p>
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<p>1 the -- you know, support the shops.</p> <p>2 And that's -- that's our typical</p> <p>3 structure. We will have at least one service unit</p> <p>4 nurse in each service unit, and then with the larger</p> <p>5 shops, we'll have -- they'll have their own nurse.</p> <p>6 Those are the occupational health nurses.</p> <p>7 The fitness-for-duty nurses are all --</p> <p>8 well, they're all headquartered out of Omaha, and</p> <p>9 their job is just to support the fitness-for-duty</p> <p>10 activities and work with the associate medical</p> <p>11 directors and then me and the director of clinical</p> <p>12 services.</p> <p>13 Q. How many fitness-for-duty nurses are there</p> <p>14 in Omaha?</p> <p>15 A. So we -- I believe we have -- we have six</p> <p>16 or seven right now. We've got two empty positions,</p> <p>17 so usually we have about eight to nine. It varies a</p> <p>18 little bit in terms of, you know, reorganization.</p> <p>19 We're going through some reorganization and</p> <p>20 downsizing.</p> <p>21 Q. Okay. How many service units are there</p> <p>22 within Union Pacific?</p> <p>23 A. Well, as I said, I think there's</p> <p>24 approximately 20.</p> <p>25 Q. Okay. And then the service units are then</p>	<p>1 They will -- and we have protocols for</p> <p>2 them for first aid, for cases, first aid and triage.</p> <p>3 So things that are more than first aid, of course we</p> <p>4 want them to triage those to a medical facility and</p> <p>5 arrange transportation and so forth.</p> <p>6 They will also be involved in health</p> <p>7 promotion efforts for employees, they'll do health</p> <p>8 education if employees come in and ask them about,</p> <p>9 you know, personal medical issues.</p> <p>10 We're not gonna try to practice medicine</p> <p>11 or have them actually direct care, but this is, we</p> <p>12 believe an important thing, to provide health</p> <p>13 education and try to answer their questions.</p> <p>14 They will work with the local management</p> <p>15 on health and safety programs, so they're part of</p> <p>16 the team in terms of doing, you know, programmatic</p> <p>17 things.</p> <p>18 They have a limited involvement in</p> <p>19 fitness-for-duty in -- basically in terms of getting</p> <p>20 people -- coordinating employees and managers with</p> <p>21 people in Omaha, but they don't directly -- they're</p> <p>22 not directly involved with them other than</p> <p>23 sometimes, you know, coordination, getting people to</p> <p>24 the right person in Omaha that deals with that.</p> <p>25 And then they'll -- finally when</p>

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<p>1 president, EVP, chief administrative officer.</p> <p>2 Q. Okay. And who is that person currently?</p> <p>3 A. Eric Butler.</p> <p>4 Q. Okay. And how would Mr. Butler's job</p> <p>5 duties relate to fitness-for-duty?</p> <p>6 A. The vice president of human resources</p> <p>7 reports to him.</p> <p>8 Q. Okay. And who is that?</p> <p>9 A. That's Sherrye Hutcherson.</p> <p>10 Q. Okay. More specifically than that, how</p> <p>11 would Mr. Butler be involved in the fitness-for-duty</p> <p>12 program, kind of in his day-to-day job duties?</p> <p>13 A. He wouldn't have day-to-day involvement.</p> <p>14 The -- you know, the health -- or the medical rules,</p> <p>15 which regulate our program, are something that has</p> <p>16 been adopted as a rule or policy of the company.</p> <p>17 That's always done at the top organizational level.</p> <p>18 So they -- you know, at one time this</p> <p>19 was -- their current policy was approved by the</p> <p>20 operating committee because that's how we have to</p> <p>21 approve policies, and the -- they -- he does have</p> <p>22 oversight, you know, so he can and does ask</p> <p>23 questions and can ask us to produce everything and</p> <p>24 can make suggestions, but on a day-to-day level,</p> <p>25 usually he -- that's not a day-to-day function</p>	<p>1 that report to the executive vice president-chief</p> <p>2 administrative officer. Eric Butler has that</p> <p>3 position now. And you can see one of the groups</p> <p>4 reporting to him is human resources.</p> <p>5 Q. How is -- how is the human resources</p> <p>6 department involved in the fitness-for-duty program?</p> <p>7 A. Well, our department or our health and</p> <p>8 medical services department is part of human</p> <p>9 resources.</p> <p>10 Q. Okay. You can put this exhibit aside.</p> <p>11 A. (Witness complies.)</p> <p>12 Q. You mentioned that within health and</p> <p>13 medical you had your own devoted computer support</p> <p>14 group; did you say that?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Who's in charge of that?</p> <p>17 A. The -- well, there are two people. I'm</p> <p>18 not sure that -- I think they both take</p> <p>19 responsibility. Sheila Fields and Heather Aguilera.</p> <p>20 Q. And what is Ms. Fields' job title?</p> <p>21 A. I don't know.</p> <p>22 Q. Okay. What -- what do Ms. Fields and</p> <p>23 Ms. Aguilera do for your health and medical services</p> <p>24 group?</p> <p>25 A. Well, we developed a unique computer</p>
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<p>1 usually.</p> <p>2 Q. Okay. Is it fair to say that within the</p> <p>3 company, Mr. Butler is the highest level -- highest</p> <p>4 level person in the company that has ownership over</p> <p>5 the fitness-for-duty program?</p> <p>6 MR. MOORE: Objection: Form.</p> <p>7 THE WITNESS: I -- I don't think I</p> <p>8 would say it that way. I mean, I think the --</p> <p>9 the -- you know, even the president, you know,</p> <p>10 chairman, CEO, knows about our program.</p> <p>11 You know, they're supportive of</p> <p>12 fitness-for-duty because they think it contributes</p> <p>13 to safety and it's the right thing to do, and so --</p> <p>14 and, you know, occasionally will comment on it, so I</p> <p>15 think -- I think that there's ownership of this as a</p> <p>16 component of the company by the top executive group,</p> <p>17 including not just our executive vice president, but</p> <p>18 law, labor relations operations. They'll all,</p> <p>19 safety; they'll all, you know, comment if they think</p> <p>20 there's something they want to say.</p> <p>21 BY MR. SCHUG:</p> <p>22 Q. Okay. Turn to the third page of this</p> <p>23 Exhibit 3. What is this part of the org chart</p> <p>24 describing?</p> <p>25 A. So this is the -- these are the people</p>	<p>1 system to support our department--fitness-for-duty,</p> <p>2 regulatory exams, and we -- I believe it came online</p> <p>3 in 2013, and it was about a year or more in</p> <p>4 development before that, so she would -- so -- and</p> <p>5 it -- it can coordinate and hook in with our</p> <p>6 enterprise computer system for the company.</p> <p>7 And parts of it are confidential; people</p> <p>8 can't get into the medical part, but if we provide</p> <p>9 clearance for somebody, we put it in our computer</p> <p>10 system, and then the manager can see that. You</p> <p>11 know, so it really is a good way to integrate us</p> <p>12 with the company, so there's --</p> <p>13 Q. What is that system called?</p> <p>14 A. We call it E, with a small e --</p> <p>15 Q. Yep.</p> <p>16 A. -- HealthSafe, and the Health and Safe are</p> <p>17 capitalized.</p> <p>18 Q. Okay. Describe to me generally how the</p> <p>19 eHealthSafe system is used.</p> <p>20 A. Okay. So to access this, it's limited</p> <p>21 access, and we go in -- you have to get access --</p> <p>22 you have to be on the Union Pacific computer</p> <p>23 network, so you have to get -- have your own</p> <p>24 passwords to get on there.</p> <p>25 And then within that, you go into a</p>

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<p>1 evaluation, but if we, in the process of doing that, 2 find something that we think would be a safety risk, 3 then we'll initiate fitness-for-duty. 4 5 So I think we have a fairly standard 6 process for doing it that we've worked out at least 7 in practice, if not every decision point's written 8 down as a rule. So that's an initiation point. 9 10 Now, how it's formally started is there's 11 a process in, again, our eHealthSafe system, where 12 the fitness-for-duty nurse opens a case. And this 13 is where we have a lot of terminology, too. A 14 fitness-for-duty case is opened by the nurse. 15 16 We have different categories, so she 17 actually puts in the system why it's initiated: 18 This is a manager referral, this is a health and 19 medical services initiated one. 20 21 We tend to categorize anything that's a 22 reportable health condition as a reportable health 23 condition no matter how it comes to us. I know that 24 may seem a little logical, but if it's employee 25 requests or something, we decide if it's one of 26 these things, we categorize it as a reportable 27 health condition. 28 29 Q. Sorry to interrupt again. 30 31 When you say categorize as an employee</p>	<p>1 opening this, the nurse also has to do certain 2 administrative things, like the person's not 3 working, you need to put them on medical leave, and 4 you need to send out notifications to this -- the 5 system automatically sends out notification to the 6 supervisor that this person's considered not fit for 7 duty pending evaluation. 8 9 And -- and then the next step is the 10 fitness-for-duty nurse makes contact with the 11 employee, typically with a phone call or sometimes 12 an e-mail, please, call me so we can discuss this, 13 but they always want to have a personal contact with 14 them or direct contact. And then talks to the 15 employee about why we did the fitness-for-duty 16 evaluation if they don't know, or why we opened it. 17 18 So if we -- if it's a manager's referral, 19 we say your manager's got these concerns. Now, the 20 manager's usually told the person they're opening 21 it, too, or if we -- if it's something we 22 discovered, we just say we were looking through this 23 information in your file and this is our concern, we 24 need to evaluate it. 25 26 The nurse will try to determine if this is 27 a condition, there's relevant medical care that's 28 been given. Currently or historically, the nurse is</p>
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<p>1 health event or employee health condition, what do 2 you mean by that when you say categorize? 3 4 A. The -- 5 6 MR. MOORE: Object to form. 7 8 Go ahead. 9 10 THE WITNESS: As part of the process 11 in the computer system, you initiate -- the nurse 12 initiates a fitness-for-duty evaluation, then 13 there's a pull-down menu, what was the reason for 14 the fitness-for-duty evaluation. And health and 15 medical services initiated a manager request, 16 reportable health condition. 17 18 BY MR. SCHUG: 19 20 Q. Okay. 21 22 A. So the -- it sort of makes sense in a way. 23 The reportable health condition, even if it came in 24 from us reviewing health and medical records, we're 25 gonna just put it in that category just -- so 26 then -- and then preplacement is its own category. 27 We don't actually call it fitness-for-duty, but it's 28 what it is, and the same thing with, you know, our 29 return-to-work exams or for fitness-for-duty 30 evaluation. 31 32 So then the process is somewhat directed 33 by a computer system. You know, they -- as part of</p>	<p>1 pretty good at deciding what to ask for in terms of 2 records. 3 4 And then when we get material about the 5 case, the nurse will send it to the associate 6 medical director. And the associate medical 7 director's review is, again, what's the medical 8 condition, what might be the potential safety risk. 9 10 The -- they'll at least make notes of this 11 in eHealthSafe. There may be another iteration 12 where the associate medical director says we need 13 more records, ask them for these additional records, 14 or we need to send them to an exam ourselves, we'll 15 do this. 16 17 When we've got all sufficient medical 18 information, the associate medical director will 19 make a fitness-for-duty determination based on an 20 individualized evaluation of the person's health 21 condition, and also information about the job duties 22 and risks. 23 24 And if it's something that -- where 25 there's a risk for sudden incapacitation, they'll 26 apply the evidence-based risk assessments that might 27 be in FMCSA or other literature we have to determine 28 if the risk is unacceptably high or acceptable, then 29 inform -- then they'll come up with a decision.</p>

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<p>1 A. Well, I don't know if I would phrase</p> <p>2 limitations. We -- we try to -- it's our intent to</p> <p>3 be as specific as we can. Now, sometimes you have</p> <p>4 to be more general because you actually don't know</p> <p>5 what the medical condition is or -- and -- but when</p> <p>6 we can be specific, we are.</p> <p>7 We have -- on our forms currently, we have</p> <p>8 certain language that relates to the GINA Act, and I</p> <p>9 can't really cite that for you, but it's a standard</p> <p>10 thing basically saying, you know, we're not asking</p> <p>11 for genetic information.</p> <p>12 And the -- there are certain things that</p> <p>13 when we fill out the request form, like sometimes we</p> <p>14 have request forms we fill out as sort of like a</p> <p>15 medical information. We ask the employee to sign so</p> <p>16 we can give it to a hospital, and, you know, on</p> <p>17 those sometimes, you have to say whether you're</p> <p>18 asking for mental health and substance abuse</p> <p>19 information, and we never ask for information about</p> <p>20 HIV, for instance. We just wouldn't.</p> <p>21 So I think -- and we -- you know, the --</p> <p>22 the nurses know that we're not going to ask for</p> <p>23 personal information that's not relevant to the</p> <p>24 case.</p> <p>25 Q. Okay. How do the nurses know not to do</p>	<p>1 diseases that you weren't asking for?</p> <p>2 MR. MOORE: Objection: Form.</p> <p>3 THE WITNESS: So the -- well, I think</p> <p>4 it's my same answer as before. I mean, we ask for</p> <p>5 specific things because it's for fitness-for-duty,</p> <p>6 and the -- we didn't have that language. I mean, we</p> <p>7 didn't ask for genetic information, you know, we</p> <p>8 asked for other -- other things. I think the reason</p> <p>9 we put the language in is to make it clear we</p> <p>10 weren't asking for it.</p> <p>11 BY MR. SCHUG:</p> <p>12 Q. Sure.</p> <p>13 A. But all I can say is before that, we tried</p> <p>14 to be as specific as we could.</p> <p>15 Q. Sure. Did you find -- before you started</p> <p>16 using the GINA language, did you find that you would</p> <p>17 often get, you know, broader family medical history</p> <p>18 or medical history from the employee that -- that</p> <p>19 you hadn't specifically asked for?</p> <p>20 MR. MOORE: Objection: Form.</p> <p>21 THE WITNESS: The -- well, of course,</p> <p>22 what we're asking for is medical records, and we're</p> <p>23 not asking people to redact them. And if they did,</p> <p>24 that's not the practice usually in medicine. And so</p> <p>25 we will -- we may be -- so we're gonna find all</p>
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<p>1 that?</p> <p>2 A. Well, they -- they have -- we have</p> <p>3 training, you know, with them, we -- they have a</p> <p>4 supervisor, Deb Gengler, and myself and others that</p> <p>5 they frequently come to. Every day I get multiple</p> <p>6 questions from them, you know, so they feel very</p> <p>7 comfortable, you know, asking us for advice.</p> <p>8 And we see their work. I mean, if we see</p> <p>9 something that we think we want them to do it</p> <p>10 differently, we'll tell them. So I mean, it's</p> <p>11 just -- it's like any other management. We've got</p> <p>12 some training, we've got ability -- you know,</p> <p>13 oversight, you know, we try to give positive</p> <p>14 feedback and we try to encourage questions.</p> <p>15 Q. Do I have -- do you recall when exactly</p> <p>16 the -- this GINA language was started to be included</p> <p>17 in the templates used by fitness-for-duty nurses?</p> <p>18 A. I don't know the exact time. I think it</p> <p>19 was -- I think it was maybe two, three years ago,</p> <p>20 but not in the past year before that.</p> <p>21 Q. Prior to the time that that language was</p> <p>22 included about GINA, what did the health and medical</p> <p>23 services department do to prevent employees or their</p> <p>24 health care providers from giving family medical</p> <p>25 information or an employee's history of certain</p>	<p>1 about their health conditions. I mean, that's the</p> <p>2 way you practice medicine mainly.</p> <p>3 I mean, sometimes if you're going -- like,</p> <p>4 if you're going to an ophthalmologist, you're not</p> <p>5 going to give a complete history. If you go to an</p> <p>6 internist, you are, you know. So I think that</p> <p>7 information is inherent in medical records.</p> <p>8 Now, we're going to focus on a couple</p> <p>9 certain things. We're going to focus on the things</p> <p>10 that are relevant to their condition that causes</p> <p>11 a -- we think causes a safety risk, but we're gonna</p> <p>12 get the records that speaks to their general health.</p> <p>13 BY MR. SCHUG:</p> <p>14 Q. All right. I'm going to go through and</p> <p>15 look at some -- just have you take a look at some</p> <p>16 documents, and see if you can identify them for me.</p> <p>17 (Exhibit No. 12 marked for</p> <p>18 identification.)</p> <p>19 MR. MOORE: I'm going to assert an</p> <p>20 objection to any questions regarding the underlying</p> <p>21 facts of any of the individual plaintiffs as beyond</p> <p>22 the scope of the 30(b)(6) notice. So we didn't</p> <p>23 prepare him to answer individual questions regarding</p> <p>24 each plaintiff because it wasn't included in the</p> <p>25 topics in the 30(b)(6).</p>